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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,926	08/26/2003	Walter J. Ferguson	15826-194001/II-03-05	2430

26231 7590 11/17/2004

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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/647,926

Applicant(s)

FERGUSON ET AL.

Examiner

Gail Verbitsky

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08/24/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11-38 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/26/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Restriction/ Election**

1. Applicant's election with traverse of Restriction/Election requirement (08/12/2004) in the reply filed on 08/24/2004 is acknowledged. The traversal is on the ground(s) that the examiner did not properly consider sets of dependent claims, and that the Inventions are not different but the matter of broader and narrower claims. In response to this, the Examiner again thoroughly studied the claims and still feels that the Inventions are different. For example, Invention I comprise a housing and a first inductive assembly fixed to the housing, not required by Inventions II and III. Invention II requires a pointer, an indicia plate and rotatable shaft, not required by Invention I. The method of Invention III can be used with another apparatus not necessarily with an apparatus of the Invention I since they are different in that Invention III does not require a housing and a first inductive assembly fixed to the housing. The method of Invention III can be used with another apparatus, not necessarily with an apparatus of Invention III since they are different in that the Invention III does not require a pointer, an indicia plate and rotatable shaft required by Invention II.

The requirement is still deemed proper and is therefore made FINAL.

### ***Allowable Subject Matter***

2. The following is a statement of reasons for the indication of allowable subject matter: Claims 1-10 are allowed because the prior art does not teach a device for measuring temperature comprising a housing, a temperature responsive element supported relative to a housing, operable to move to sense temperature, a first inductive

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assembly component fixed relative to the housing, a second assembly component movably positioned relative to the first inductive assembly, the second inductive assembly driven by movement of the temperature-responsive element, the movement of the second inductive assembly generating a change in a local eddy current pattern corresponding to the sensed temperature, in combination with the remaining limitations of claims 1-10.

3. Claims 11-38 are subject to restriction/ election.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky

Primary Patent Examiner, TC 2800



November 05, 2004